

DEPARTMENT OF STATE REVENUE

LETTER OF FINDINGS NUMBER: 98-0656P

**Gross Income Tax
Calendar Years 1994, 1995, and 1996**

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE(S)

I. Tax Administration – Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

STATEMENT OF FACTS

Taxpayer, incorporated in Michigan on September 4, 1985 was audited for calendar years 1994, 1995 and 1996. Upon audit it was discovered that the taxpayer failed to report its service receipts in high rate income. It reported those sales in low rate income. Taxpayer also failed to report its gross sales of Indiana assets and add back Washington Business & Occupational taxes. No other adjustments were made in the audit report.

Taxpayer requests that the department waive the negligence penalty.

I. Tax Administration – Penalty

DISCUSSION

Taxpayer was assessed a negligence penalty because it failed to report gross income at the high rate of tax in 1994 and 1995. It reported those receipts correctly in 1996. In 1994 and 1995 it utilized the lower rate of tax.

Taxpayer, in a letter dated October 19, 1998 protested penalties assessed and states that it has timely filed all returns and the only major adjustment was for using the lower tax rate for the gross income tax which was corrected during the audit cycle.

02980656P.LOF

PAGE #2

The department agrees that the taxpayer did not intentionally disregard the laws and regulations of Indiana but finds that the taxpayer was negligent in failing to remit the proper amount of tax at the correct rate. The assessment consisted of over fifty percent (50%) tax due for 1994 and 1995.

The taxpayer did not show reasonable cause to allow the department to waive the penalty.

FINDING

Taxpayer's protest is denied.